

GL.



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/726,499	11/30/2000	Patrick Schauerte	7040-12	1106

21324 7590 08/11/2004

HAHN LOESER & PARKS, LLP  
TWIN OAKS ESTATE  
1225 W. MARKET STREET  
AKRON, OH 44313

EXAMINER

BRADFORD, RODERICK D

ART UNIT PAPER NUMBER

3762

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/726,499

Applicant(s)

SCHAUERTE, PATRICK

Examiner

Roderick Bradford

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 5, 8, 9 and 13 rejected under 35 U.S.C. 103(a) as being unpatentable over Dahl et al. U.S. Patent No. 5,531,779 in view Cammilli et al. U.S. Patent No. 6,397,109.

Referring to claim 1, Dahl discloses an electrode for intravascular stimulation, cardioversion and/or defibrillation comprising:

- A stimulation probe which can be fixed in a blood vessel by way of electrical or magnetic pulses and cardioversion/defibrillation shocks can be delivered (column 2, lines 3-7)
- Wherein a metallic, electrically conductive tubular wire unit adjoins the feed line in the axial direction (column 2, lines 42-45)
- Wherein the wire unit is adapted to be deployed in the blood vessel in a first state and expanded in the second state in which the wire unit is

Art Unit: 3762

adapted to be in electrically conductive relationship with an interior wall of a blood vessel (column 3, lines 46-52)

- Wherein the 2<sup>nd</sup> state the probe does not project radially into the lumen along the length of a wire that reduces the cross-sectional area (column 2, lines 3-7)

However, Dahl fails to teach wherein the wire unit comprises a plurality of portions, the portions being electrically insulated from each other. Cammilli discloses a wire unit that comprises a plurality of portions, the portions being electrically insulated from each other as a means of applying different voltages.

It would have been obvious to having ordinary skill in the art at the time the invention was made to modify the teachings of Dahl to include a wire unit that comprises a plurality of portions, the portions being electrically insulated from each other, as taught by Cammilli, as a means of applying different voltages.

Referring to claim 3, wherein the wire unit resiliently expands itself from a pre-stressed compressed condition inside the vessel (column 4, line 6-10).

Referring to claim 5, Cammilli discloses wherein the wire unit is a cylindrical coil (fig. 1)

Referring to claim 8, wherein a radial diameter of the wire unit changes in the longitudinal direction (Fig. 3).

Referring to claim 9, wherein the wire unit is of a conical type (column 4, lines 3-10).

Art Unit: 3762

Referring to claim 13, wherein a control unit is electrically communicated to the wire unit provides at least one control signal thereto (column 2, lines 20-29).

4. Claim 2 rejected under 35 U.S.C. 103(a) as being unpatentable over Dahl et al. U.S. Patent No. 5,531,779 in view Cammilli et al. U.S. Patent No. 6,397,109 as applied to claim 1 above, and further in view of Mehra et al. U.S. Patent No. 5,170,802.

Referring to claim 2, Dahl in view of Cammilli fails to disclose wherein the inflatable balloon body is provided for expansion in the interior wire, which is plastically deformable. However Mehra discloses wherein the inflatable balloon body is provided for expansion in the interior wire, which is plastically deformable (abstract) as an alternate means of expanding the stent.

It would have been obvious to one having ordinary skill in the art to modify the teaching of Dahl in view of Cammilli to include wherein the inflatable balloon body is provided for expansion in the interior wire, which is plastically deformable, as taught by Mehra, as an alternate means of expanding the stent.

5. Claims 7, 11 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahl et al. U.S. Patent No. 5,531,779 in view Cammilli et al. U.S. Patent No. 6,397,109 as applied to claim 5 above, and further in view of Laufer et al. U.S. Patent No. 6,283,989.

Referring to claims 7, 11 and 16, Dahl in view of Cammilli fails to disclose a device wherein an induction unit supplies the electrode with voltage and inductively heats the electrode. However, Laufer discloses a device wherein an induction unit supplies the electrode with voltage and inductively heats the electrode (column 2, lines

Art Unit: 3762

32-37) as a means to more efficiently provide energy to the electrode.

It would have been obvious to one having ordinary skill in the art to modify the teachings of Dahl in view of Cammilli to include wherein an induction unit supplies the electrode with voltage and inductively heats the electrode, as taught by Laufer, as a means to more efficiently provide energy to the electrode.

6. Claims 10 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahl et al. U.S. Patent No. 5,531,779 in view Cammilli et al. U.S. Patent No. 6,397,109.

Referring to claims 10 and 17, Dahl in view of Cammilli discloses the claimed invention except for wherein the wire unit is coated with a medicant. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the wire unit as taught by Dahl in view of Cammilli, with medicant since it is well known in the art that leads include a medicant to help reduce the stress on blood vessels caused by the insertion of the lead.

7. Claim, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahl et al. U.S. Patent No. 5,531,779 in view Cammilli et al. U.S. Patent No. 6,397,109 and further in view of Mehra et al. U.S. Patent No. 5,170,802

Referring to claims 14 and 15, Dahl in view of Cammilli and in further view of Mehra discloses the claimed invention except for wherein the balloon body is pneumatically or hydraulically inflatable. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device as taught by Mehra, to include a balloon body that is pneumatically or hydraulically

Art Unit: 3762

inflatable since it was known in the art that these two procedures are used as alternative means to inflate the balloon body.

8. Claim 19 rejected under 35 U.S.C. 103(a) as being unpatentable over Dahl et al. U.S. Patent No. 5,531,779 in view Cammilli et al. U.S. Patent No. 6,397,109.

Referring to claim 19, Dahl in view of Cammilli discloses the claimed invention except for wherein the feed line is terminated with a ring to form a bipolar electrode. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the feed line of Mehra (or Dahl), with a ring to form a bipolar electrode since it was well known to use bipolar electrodes as a more efficient way of sensing and stimulating the heart.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sutton et al. U.S. Patent No. 6,529,779.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roderick Bradford whose telephone number is (703) 305-3287. The examiner can normally be reached on Monday - Friday 7 a.m. - 4 p.m..


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (703) 308-5181. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Art Unit: 3762

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.



R.B.



ANGELA D. SYKES  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700